

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MEGAN ROGERS,

Plaintiff,

vs.

5:22-CV-801
(MAD/TWD)

MICHAEL BENEDICT, RUDOLPH SOHL,
AND SARA SOHL,

Defendants.

APPEARANCES:

MEGAN ROGERS

229 Duane Street
Syracuse, New York 13207
Plaintiff *pro se*

Mae A. D'Agostino, U.S. District Judge:

ORDER

On July 29, 2022, Plaintiff Megan Rogers ("Plaintiff") commenced this action, *pro se*, against Michael Benedict, Rudolph ("Rudy") Sohl, Sara Sohl, Spike Benedict/Deuce, Sohl, and Reedy Sohl. *See* Dkt. No. 1. Plaintiff submitted her complaint using five different complaint forms for causes of action arising under Title VII of the Civil Rights Act, 42 U.S.C. § 1983, *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), the American with Disabilities Act, and the Age Discrimination in Employment Act. *See id.* Plaintiff also submitted an application to proceed *in forma pauperis* ("IFP"). *See* Dkt. No. 2.

On October 04, 2022, Magistrate Judge Thérèse Wiley Dancks issued an Order and Report-Recommendation granting Plaintiff's IFP application. *See* Dkt. No. 7. After conducting an initial review pursuant to 28 U.S.C. § 1915(e), Magistrate Judge Dancks recommended

Plaintiff's complaint be dismissed with leave to amend. *See id.* On April 12, 2022, this Court adopted Magistrate Judge Dancks's Report-Recommendation in its entirety. *See* Dkt. No. 10.

On April 18, 2023, Plaintiff filed an amended complaint alleging claims against Michael Benedict, Rudy Sohl, and Sara Sohl ("Defendants"). *See* Dkt. No. 11. On August 29, 2023, Magistrate Judge Dancks reviewed the amended complaint pursuant to 28 U.S.C. § 1915(e) and issued an Order and Report-Recommendation recommending that Plaintiff's complaint be dismissed with prejudice. *See* Dkt. No. 12. Magistrate Judge Dancks recommended Plaintiff's amended complaint be dismissed because Plaintiff's claims were inadequately pled and frivolous. *See id.* Plaintiff did not file any objections to the Order and Report-Recommendation.

When a party declines to file specific objections to a magistrate judge's report-recommendation, the district court reviews these recommendations for clear error. *See LeBron v. Uhler*, No. 9:22-CV-10, 2023 WL 2500507, *1 (N.D.N.Y. Mar. 14, 2023) (citing *McAllan v. Von Essen*, 517 F. Supp. 2d 672, 679 (S.D.N.Y. 2007)). After the appropriate review, "the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1).

As Plaintiff is proceeding *pro se*, the Court must review her amended complaint under a more lenient standard. *See Govan v. Campbell*, 289 F. Supp. 2d 289, 295 (N.D.N.Y. 2003). The Second Circuit has instructed that the Court must "make reasonable allowances to protect *pro se* litigants from inadvertent forfeiture of important rights because of their lack of legal training." *Traguth v. Zuck*, 710 F.2d 90, 95 (2d Cir. 1983). Thus, "a document filed *pro se* is 'to be liberally construed,' and 'a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.'" *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (quoting *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)).

Having reviewed the August 29, 2023, Order and Report-Recommendation, Plaintiff's amended complaint, and the applicable law, the Court does not discern any clear error. Magistrate Judge Dancks correctly determined that Plaintiff's amended complaint should be dismissed with prejudice as Plaintiff fails to state a claim for relief and she was previously afforded an opportunity to amend. *See* Dkt. Nos. 10, 11; *see also Canning v. Hofmann*, No. 1:15-CV-0493, 2015 WL 6690170, *5 (N.D.N.Y. Nov. 2, 2015).

Accordingly, the Court hereby

ORDERS that Magistrate Judge Dancks' Order and Report-Recommendation (Dkt. No. 12) is **ADOPTED** in its entirety for the reasons set forth herein; and the Court further

ORDERS that Plaintiff's amended complaint (Dkt. No. 11) is **DISMISSED with prejudice**; and the Court further

ORDERS that the Clerk of the Court shall enter judgment in Defendants' favor and close the case; and the Court further

ORDERS that the Clerk of the Court serve a copy of this Order upon Plaintiff in accordance with Local Rules.

IT IS SO ORDERED.

Dated: November 3, 2023
Albany, New York


Mae A. D'Agostino
U.S. District Judge